



**TERMINAL DISCLAIMER TO OBTAIN A PROVISIONAL DOUBLE PATENTING
REJECTION OVER A PENDING SECOND APPLICATION**

Docket Number (Optional)
SPINE 3.0-455 CONT III

In re Application of: **Rafail Zubok, Antonio Valdevit, Michael W. Dudasik, and Joseph P. Errico**

Application No.: **10/776,650**

Filed: **February 11, 2004**

For: **CERVICAL DISC REPLACEMENT**

The owner*, SpineCore, Inc., of 100

percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. 154 to 156 and 173 as shortened by any terminal disclaimer filed prior to the grant of any patent granted on pending second Application Numbers **10/382,702** filed **March 6, 2003**; **10/776,471** filed **February 11, 2004**; **10/776,651** filed **February 11, 2004**; **10/776,656** filed **February 11, 2004**; and **10/776,434** filed **February 11, 2004** of any patent granted on the pending second applications. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and any patent granted on the second application are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 to 156 and 173 of any patent granted on the second application, as shortened by any terminal disclaimer filed prior to the patent grant, in the event that any such granted patent: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321, has all claims canceled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as shortened by any terminal disclaimer filed prior to its grant.

Check either box 1 or 2 below, if appropriate.

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I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

2. ☒ The undersigned is an attorney or agent of record.

Kevin M. Kocun August 19, 2005
Signature Date

Kevin M. Kocun, Patent Agent
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*Statement under 37 CFR 3.73(b) is required if terminal disclaimer is signed by the assignee (owner).
Form PTO/SB/96 may be used for making this statement. See MPEP § 324.

I hereby certify that this correspondence is being deposited with the U.S. Postal Service with sufficient postage as First Class Mail, in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date shown below.

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